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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

LINDA A. WATTERS, Commissioner,  
Office of Financial and Insurance Services  
for the State of Michigan,

Petitioner,

v.

Case No.: 03-1127-CR  
Honorable William E. Collette

THE WELLNESS PLAN, a Michigan  
health maintenance organization,

Respondent.

MARK J. ZAUSMER (P31721)  
AMY M. SITNER (P46900)  
Zausmer, Kaufman, August & Caldwell, P.C.  
Attorneys for the Rehabilitator  
31700 Middlebelt, Suite 150  
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(248) 851-4111

ORDER GRANTING  
REHABILITATOR'S PETITION TO APPROVE  
PRELIMINARY CLAIMS ADJUDICATION PROCEDURES  
FOR MEDICAL MALPRACTICE CLAIMS  
AND GRANTING FURTHER RELIEF

At a session of said Court, held in the Courtroom thereof,  
in the City of Mason, County of Ingham, State of Michigan, this

1-17-06  
PRESENT: HON. \_\_\_\_\_

CIRCUIT COURT JUDGE

This matter having come before the Court on the remaining issues under the Rehabilitator's  
Petition to Approve Preliminary Claims Adjudication Procedures for Medical Malpractice Claims  
that were not addressed in the Court's prior Order of December 5, 2005, briefs having been filed,  
the Court having heard oral argument and being otherwise fully advised in the premises:

IT IS HEREBY ORDERED that the Rehabilitator may pay what the Rehabilitator determines to be the actual, reasonable costs of defending medical malpractice claims, including but not limited to attorneys' and experts' fees, from the The Wellness Plan's medical malpractice trust account (the "Trust Account") without further order of this Court.

IT IS FURTHER ORDERED that the Rehabilitator shall inform the Court, following any payment from the Trust Account, of the amount remaining in the Trust Account; such information shall be available to interested parties via the Court file or upon written request to the Rehabilitator's counsel.

IT IS FURTHER ORDERED that if the Rehabilitator concludes that a claim is insufficient as a matter of law, the Rehabilitator may submit a motion, in the nature of a summary disposition motion ("Summary Motion"), seeking dismissal of the claim; and upon the filing of such a motion, the Court will issue a schedule for briefing and hearing of the motion.

IT IS FURTHER ORDERED that a Claimant who is subject to a Summary Motion may file a motion with the Court requesting discovery that the Claimant believes is necessary to properly defend the Summary Motion.

IT IS FURTHER ORDERED that if a Summary Motion is denied or withdrawn, the affected claim will become subject to the procedures for streamlined discovery and facilitation, as described below, with appropriate date modifications as either agreed by the parties or ordered by the Court.

IT IS FURTHER ORDERED that the claims identified in the underlying Petition as being ripe for facilitation shall proceed to facilitation as further described below.

IT IS FURTHER ORDERED that the Rehabilitator shall, by January 15, 2006, provide to each Claimant known to the Rehabilitator, other than Claimants identified in the underlying Petition

as being ripe either for immediate facilitation or for filing of a Summary Motion, a proposed streamlined discovery plan identifying the discovery that the Rehabilitator needs in order to ready the matter for facilitation.

IT IS FURTHER ORDERED that by January 30, 2006, each Claimant who receives a proposed streamlined discovery plan as described above shall provide to the Rehabilitator a response to the streamlined discovery plan including any additional discovery the Claimant believes is necessary to ready the matter for facilitation.

IT IS FURTHER ORDERED that after January 30, 2006, the Rehabilitator and each affected Claimant shall, if possible, submit for entry by the Court a stipulated streamlined discovery plan.

IT IS FURTHER ORDERED that if the Rehabilitator and any affected Claimant are unable to stipulate to a streamlined discovery plan, the Court will conduct a status conference and issue an order imposing a streamlined discovery plan.

IT IS FURTHER ORDERED that, at the conclusion of the streamlined discovery process, each affected claim will either proceed to facilitation by agreement of the parties, or either party may petition the Court to compel facilitation.

IT IS FURTHER ORDERED that claims to be facilitated shall be facilitated with one of the following facilitators:

Barry L. Howard, Esquire (P23458)  
(Of Counsel, Lipson, Neilson, Cole, Seltzer & Garin, P.C.)  
3910 Tyler, Suite 200, Bloomfield Hills, MI 48302  
Tel. (248) 593-5000

Peter D. Houk, Esquire (P15155)  
Fraser, Trebilcock, Davis & Dunlap, P.C.  
124 W. Allegan St., Ste 1000  
Lansing, MI 48933  
Tel. (517) 482-5800

Bryan H. Levy, Esquire (P25576)  
Bryan H. Levy, P.C.  
31800 Northwestern Highway, Suite 350  
Farmington Hills, MI 48334  
Tel. (248) 225-2949

Martin G. Waldman, Esquire (P27609)  
Martin G. Waldman, P.C.  
7115 Orchard Lake Road, Suite 500  
West Bloomfield, MI 48322  
Tel. (248) 855-8900

Elliott S. Hall, Esquire (P14546)  
Dykema Gossett, PLLC  
400 Renaissance Ctr, 35<sup>th</sup> Floor  
Detroit, MI 48243  
Tel. (313) 568-6516

Elizabeth Gleicher, Esquire (P30369)  
Elizabeth Gleicher, P.L.L.C.  
414 West Fifth Street  
Royal Oak, MI 48067  
Tel. (248) 544-3430

IT IS FURTHER ORDERED that the parties to a facilitation shall by mutual agreement select a facilitator from the approved list; if the parties are unable to agree, the Court shall select a facilitator from the approved list.

IT IS FURTHER ORDERED that each party participating in a facilitation shall pay an equal pro-rata share of the facilitator's fees and that the facilitation process shall be subject to the confidentiality provisions of MCR 2.411(C)(5).

IT IS FURTHER ORDERED that if a facilitation is successful in resolving the claim, the Rehabilitator will petition the Court for approval and payment of the settlement. Settlements will be paid from the Trust Account and from other available insurance proceeds, as applicable to a particular claim. In the event the amount of a settlement exceeds the Trust Account and/or available

insurance policy limits applicable to a particular claim, any excess amount above these limits will be paid by The Wellness Plan as a Class 4 claim.

IT IS FURTHER ORDERED that if a facilitation is not successful in resolving the claim, the claim will continue in the rehabilitation estate and will eventually be resolved consistent with the Comprehensive Medical Malpractice Claims Adjudication Procedures, as such procedures are hereafter approved by this Court.

WILLIAM E. COLLETTE

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CIRCUIT COURT JUDGE